ESTTA Tracking number:

ESTTA735233 03/22/2016

Filing date:

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| Proceeding                | 91223290  |
|---------------------------|---|
| Party                     | Plaintiff Nerium International, LLC   |
| Correspondence<br>Address | ROBERT J WARD GARDERE WYNNE SEWELL LLP 3000 THANKSGIVING TOWER 1601 ELM STREET DALLAS, TX 75201 UNITED STATES ip@gardere.com, rward@gardere.com, jjones@gardere.com, lhemphill@gardere.com, mku@gardere.com, pstorm@gardere.com |
| Submission                | Stipulated/Consent Motion to Extend   |
| Filer's Name              | Lisa R. Hemphill  |
| Filer's e-mail            | ip@gardere.com, rward@gardere.com, pstorm@gardere.com, lhemphill@gardere.com, mku@gardere.com   |
| Signature                 | /Lisa R. Hemphill/  |
| Date                      | 03/22/2016  |
| Attachments               | Nerium Opp 91223290 STIPULATED MOTION TO SUSPEND OPPOSER'S DEADLINE TO FILE ANSWER.pdf(133935 bytes)  |

## THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## STIPULATED MOTION TO SUSPEND OPPOSER'S DEADLINE TO FILE ANSWER TO APPLICANT'S COUNTERCLAIM PENDING RESOLUTION OF OPPOSER'S MOTION FOR SUSPENSION OF OPPOSITION PROCEEDING

Opposer Nerium International, LLC ("Opposer"), for good cause shown, respectfully moves to suspend the March 22, 2016 deadline for Opposer to respond to Applicant's counterclaim pending resolution of Opposer's concurrently-filed opposed motion for suspension of the above-styled opposition proceeding. There is good cause to extend the answer date until the opposed motion for suspension is decided because Opposer and Applicant have conferred and agree that suspension of Opposer's March 22, 2016 deadline is appropriate in light of the issues raised in the motion for suspension of this opposition proceeding, namely, whether this proceeding should be suspended pending the final disposition of the civil action styled as *Nerium Skincare, Inc. v. Nerium International, LLC*, Cause No. DC-15-09594, in the 116th Judicial

District Court of Dallas County, Texas. The judicial efficiency of deciding whether this

opposition should be suspended before commencing discovery and other activity also provides

good cause to grant this motion. The parties further agree that in the event the Board denies the

motion for suspension of the opposition proceeding. Opposer's deadline to respond to

Applicant's counterclaim should be reset to fourteen (14) days after the Board issues its written

denial. No extension of any other deadline is requested.

Accordingly, Opposer respectfully requests the Board to suspend the March 22, 2016

deadline for Opposer to respond to Applicant's counterclaim pending resolution of Opposer's

concurrently-filed motion for suspension of this opposition proceeding, and should the Board

deny that motion, further respectfully request the Board reset Opposer's deadline to respond to

Applicant's counterclaim to fourteen (14) days after the Board issues its written denial.

Applicant has agreed to the foregoing rescheduling of the deadline as set forth above.

Date: March 22, 2016

Respectfully submitted,

/Lisa R. Hemphill/

Robert J. Ward

Paul V. Storm

Lisa R. Hemphill

GARDERE WYNNE SEWELL LLP

3000 Thanksgiving Tower

1601 Elm Street

Dallas, Texas 75201

Tel: 214-999-4106

Email: ip@gardere.com

rward@gardere.com

pstorm@gardere.com

lhemphill@gardere.com

ATTORNEYS FOR OPPOSER NERIUM INTERNATIONAL, LLC

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **Stipulated Motion to Suspend Opposer's Deadline to File Answer to Applicant's Counterclaim Pending Resolution of Opposer's Motion for Suspension of Opposition Proceeding** was served on Applicant's counsel of record pursuant to the parties' agreement, *via* email on March 21, 2016 to the following email addresses set forth below:

William B. Nash Jason W. Whitney HAYNES AND BOONE, LLP 112 E. Pecan Street, Suite 1200 San Antonio, Texas 78205

Tel: 210-978-7000 Fax: 210-978-7450

8543749v.1

Email: bill.nash@haynesboone.com <u>jason.whitney@haynesboone.com</u> venisa.dark@haynesboone.com

Attorneys for Applicant Nerium Biotechnology, Inc.

<u>/Lisa R. Hemphill/</u> Lisa R. Hemphill